

DEPARTMENT OF SOCIAL SERVICES

744 P Street, M.S. 19-31  
Sacramento, CA 95814



October 29, 1986

ALL COUNTY LETTER NO. 86-106

TO: All County Welfare Directors  
All Public and Private Adoption Agencies  
All SDSS Adoption District Offices

SUBJECT: PROVISIONS OF CHAPTERED LEGISLATION

Summarized below is recently chaptered legislation which affects the Adoptions Program. A copy of each chaptered bill is enclosed. With the exception of AB 3168, all bills become effective on January 1, 1987.

AB 3168 (Campbell), Chapter 1517, Statutes of 1986

This legislation changes the reimbursement ceiling for claims submitted pursuant to the Private Adoption Agency Reimbursement Program. Specifically, this bill:

- o Increases the reimbursement ceiling to an amount not to exceed an average cost of \$3,500.00 per placement for an agency's claims submitted for a fiscal year;
- o Stipulates that reimbursement amounts shall be based upon the agency's actual placement costs;
- o Requires that requests for reimbursement conform to claiming procedures established by the Department; and
- o Appropriates an additional \$54,500.00 to the program to facilitate the increased reimbursement ceiling.

This legislation is an urgency statute and went into effect upon its being signed by the Governor.

AB 3855 (Grisham), Chapter 767, Statutes of 1986

This legislation makes the following technical changes in adoption law:

- o Eliminates the requirement that the Department waive its court report on a case-by-case basis when a licensed adoption agency investigates the proposed adoption;

- o Changes the term "hard-to-place" to "special needs" to conform to federal nomenclature;
- o Repeals Welfare and Institutions Code Section 16155, an obsolete section which relates to the reimbursement of private adoption agencies for costs incurred in the placing of special needs children.

AB 4272 (Bronzan), Chapter 1345, Statutes of 1986

This legislation makes it mandatory for the Department, public and private adoption agencies to require adoptive applicants and petitioners to be fingerprinted. In addition, the Department or agency must obtain any criminal records existing for those persons. Such records must be taken into consideration when assessing a prospective adoptive placement and that assessment must be included in the report to the court. Fees incurred for the fingerprinting and criminal record checks shall be paid by the prospective adoptive parent; however, the Department or agency may defer, waive or reduce the fee under certain conditions.

AB 4295 (Stirling), Chapter 445, Statutes of 1986

This legislation requires the Department to establish a statewide photo-listing service for all licensed adoption agencies who are recruiting adoptive families for children who are legally freed and whose case plan goal is adoption. All licensed adoption agencies are required to send to the photo-listing service a recent photograph and description of the child within 15 working days of the time that the child becomes free for adoption. Agencies must provide updated information for the listings as it becomes available.

Additionally, this legislation requires the Department to develop regulations regarding the operation and compliance monitoring of the photo-listing service.

SB 903 (Presley), Chapter 1370, Statutes of 1986

This legislation mandates the consolidation of the court hearing to determine the existence of a father-child relationship (Civil Code 7006) with the court hearing to terminate alleged natural fathers' rights (Civil Code 7017). In addition, it codifies custody standards for alleged natural fathers and allows the court to determine whether the best interest of a child would be served by allowing an alleged natural father to retain his parental rights.

If you have any questions regarding the chaptered legislation, please contact your Adoptions Program Consultant at (916) 322-5973 or ATSS 492-5973.

A handwritten signature in black ink, appearing to read "Loren D. Suter", with a horizontal line extending from the end of the signature.

LOREN D. SUTER  
Deputy Director  
Adult and Family Services Division

Enclosures

cc: CWDA

Assembly Bill No. 3168

CHAPTER 1517

An act to amend Sections 16115.5, 16116, 16118, 16120, and 16122 of, and to repeal Section 16155 of, the Welfare and Institutions Code, relating to adoptions, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1986. Filed with Secretary of State September 30, 1986.]

I am reducing the appropriation contained in Section 7 of Assembly Bill No. 3168 from \$109,500 to \$54,700 in order to limit the level of funding to an amount that can reasonably be expended by the Private Adoption Agencies to meet the responsibility of placing special needs children during the 1986-87 Fiscal Year.

With this reduction, I approve Assembly Bill No. 3168.

GEORGE DEUKMEJIAN, Governor

LEGISLATIVE COUNSEL'S DIGEST

AB 3168, Campbell. Adoptions.

Existing law authorizes the state to reimburse licensed private adoption agencies for the placement of hard-to-place children up to \$2,000 per placement, less the amount of fees paid by the adoptive parents.

This bill would change this reimbursement limit to up to \$3,500 per placement, as specified, less the amount of fees paid by the adoptive parents. It would also change the term for referring to these children from "hard-to-place" to "special needs."

The bill would appropriate \$109,500 from the General Fund to the State Department of Social Services for the purposes of this bill.

The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 16115.5 of the Welfare and Institutions Code is amended to read:

16115.5. It is the intent of the Legislature in enacting this chapter to benefit special needs children residing in foster homes by providing the stability and security of permanent homes, and in so doing, achieve a reduction in foster home care. It is not the intent of this chapter to increase expenditures but to provide for payments to adoptive parents to enable them to meet the needs of special needs children.

SEC. 2. Section 16116 of the Welfare and Institutions Code is amended to read:

16116. For purposes of this chapter, a "special needs" child means a child whose adoption without financial assistance would be unlikely

because of adverse parental background, ethnic background, race, color, language, membership in a sibling group which should remain intact, mental, physical, medical or emotional handicaps or age of three years or more. The provisions of this chapter apply only to special needs children.

SEC. 3. Section 16118 of the Welfare and Institutions Code is amended to read:

16118. (a) The department shall establish and administer the program to be carried out by the department or any licensed adoption agency pursuant to this chapter. The department shall adopt such regulations as are necessary to carry out the provisions of this chapter.

(b) The department shall keep such records as are necessary to evaluate the programs' effectiveness in encouraging and promoting the adoption of special needs children.

(c) The department or licensed adoption agency which has custody of the child, shall have responsibility for certifying that the child meets special needs criteria and for determining the amount of financial assistance needed by the child and the adopting family.

(d) The county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Section 16120 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the Aid to Families with Dependent Children program if the child were not adopted. The county of responsibility for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family.

(e) The department shall actively seek and make maximum use of federal funds which may be available for the purposes of this chapter. All gifts or grants received from private sources for the purpose of this chapter shall be used to offset public costs incurred under the program established by this chapter.

SEC. 4. Section 16120 of the Welfare and Institutions Code is amended to read:

16120. Adoption Assistance Program benefits shall be paid only on behalf of special needs children for whom the following conditions are met:

(a) The department or licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits. The adoption assistance agreement shall, at a minimum, specify the duration of assistance, the responsibility of the adopting family for reporting changes in circumstances, and the periodic recertification required for reevaluating the continuing needs of the family.

(b) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation

of assistance.

(c) The adoptive family is responsible for the child pursuant to the terms of an adoption assistance agreement and an interlocutory decree or a final decree of adoption.

(d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(e) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court, or committed to the department pursuant to subdivision (c) of Section 226 of the Civil Code.

SEC. 5. Section 16122 of the Welfare and Institutions Code is amended to read:

(a) It is the intent of the Legislature in enacting this chapter to provide special needs children with permanent adoptive homes. It is also the intent of this Legislature to encourage private adoption agencies to continue placing special needs children, and in so doing, to achieve a substantial savings to the state in foster care costs.

(b) From any funds appropriated therefor, the state shall reimburse private adoption agencies licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code for costs of aid to adoption for special needs children, less the amount of fees received by the agencies from adoptive parents.

These agencies shall be reimbursed for the placement of special needs children in an amount not to exceed an average cost of three thousand five hundred dollars (\$3,500) per placement for the agency's claims submitted for a fiscal year. This amount shall be based upon the agency's actual costs per placement, less the amount of fees received by the agency from adoptive parents. Requests for reimbursement shall conform to claims procedures established by the department. Nothing in this section shall be construed to authorize reimbursement to private agencies for intercountry adoption services.

SEC. 6. Section 16155 of the Welfare and Institutions Code is repealed.

SEC. 7. The sum of one hundred nine thousand five hundred dollars (\$109,500) is hereby appropriated from the General Fund to the State Department of Social Services for the purposes of this act.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the extreme need to facilitate the placement of special needs children in adoptive homes and in view of the limited ability of private adoption agencies to place all special needs children who have been freed for adoption, it is necessary that this act take effect immediately.

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CHAPTER 767

An act to amend Section 226.6 of the Civil Code, to amend Section 17211 of the Revenue and Taxation Code, and to amend Sections 16115.5, 16116, 16118, 16119, 16120, and 16122 of, and to repeal Chapter 2.5 (commencing with Section 16155) of Part 4 of Division 9 of, the Welfare and Institutions Code, relating to adoption.

[Approved by Governor September 14, 1986. Filed with  
Secretary of State September 15, 1986.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3855, Grisham. Adoption.

Existing law requires the State Department of Social Services, the licensed county adoption agency, or licensed private agency, to investigate proposed adoptions and submit a report, but permits the State Department of Social Services to waive the report where an agency licensed to place children in homes for adoption is a party or joins in the petition for adoption, or in an intercountry adoption in which the placement was made by a licensed private agency.

This bill would specify that where the State Department of Social Services or the licensed agency is a party to or joins in the petition for adoption, it is the responsibility of that agency to submit the report, thus establishing a state-mandated local program by eliminating the authority for the departmental waiver of the report of the licensed agency. It also would authorize the department to submit a report where an agency licensed to place children in homes for adoption is a party to or joins in the petition for adoption. The bill also would make a related change.

Existing law contains a program to facilitate the adoption of hard-to-place children.

This bill would change the reference to special needs children.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

*The people of the State of California do enact as follows:*



SECTION 1. Section 226.6 of the Civil Code is amended to read:  
226.6. (a) In those cases in which neither the State Department of Social Services nor an agency licensed by the State Department of Social Services is a party to or joins in the petition for adoption it shall be the duty of the State Department of Social Services or the licensed county adoption agency, or, in the case of an intercountry adoption, the private adoption agency licensed to provide intercountry adoption services, to investigate the proposed adoption and to submit to the court a full report of the facts disclosed by its inquiry with a recommendation regarding the granting of the petition within 180 days after the filing of the petition. In those cases in which the investigation establishes that there is a serious question concerning the suitability of the petitioners or the care provided the child or the availability of the consent to adoption the report shall be filed immediately. The court may allow such additional time for the filing of the reports as in its discretion it may see fit, after at least five days' notice to the petitioner or petitioners and opportunity for the petitioner or petitioners to be heard with respect to the request for additional time.

(b) In those cases in which the State Department of Social Services or an agency licensed by the State Department of Social Services is a party to or joins in the petition for adoption, it shall be the duty of the State Department of Social Services or the agency, whichever is a party to or joins in the petition, to submit a full report of the facts of the case to the court. The State Department of Social Services may also submit a report in those cases in which an agency licensed by the department to place children in homes for adoption is a party or joins in the petition for adoption.

SEC. 2. Section 17211 of the Revenue and Taxation Code is amended to read:

17211. (a) The maximum deduction for adoption expenses shall not exceed five hundred dollars (\$500) in a separate return of a married person or one thousand dollars (\$1,000) in any other return.

(b) A deduction shall be allowed for the "qualified adoption expenses," as defined by Section 222 of the Internal Revenue Code, of a child, other than a special needs child, which exceed 3 percent of adjusted gross income, subject to the maximum limitation in subdivision (a).

SEC. 3. Section 16115.5 of the Welfare and Institutions Code is amended to read:

16115.5. It is the intent of the Legislature in enacting this chapter to benefit special needs children residing in foster homes by providing the stability and security of permanent homes, and in so doing, achieve a reduction in foster home care. It is not the intent of this chapter to increase expenditures but to provide for payments to adoptive parents to enable them to meet the needs of special needs children.

SEC. 4. Section 16116 of the Welfare and Institutions Code is

amended to read:

16116. For purposes of this chapter, a special needs child means a child whose adoption without financial assistance would be unlikely because of adverse parental background, ethnic background, race, color, language, membership in a sibling group which should remain intact, mental, physical, medical or emotional handicaps or age of three years or more. The provisions of this chapter apply only to special needs children.

SEC. 5. Section 16118 of the Welfare and Institutions Code is amended to read:

16118. (a) The department shall establish and administer the program to be carried out by the department or any licensed adoption agency pursuant to this chapter. The department shall adopt such regulations as are necessary to carry out the provisions of this chapter.

(b) The department shall keep such records as are necessary to evaluate the programs' effectiveness in encouraging and promoting the adoption of special needs children.

(c) The department or licensed adoption agency which has custody of the child, shall have responsibility for certifying that the child meets special needs criteria and for determining the amount of financial assistance needed by the child and the adopting family.

(d) The county responsible for determining the child's Adoption Assistance Program eligibility status and for providing financial aid in the amount determined in Section 16120 shall be the county that at the time of the adoptive placement would otherwise be responsible for making a payment pursuant to Section 11450 under the Aid to Families with Dependent Children program if the child were not adopted. The county of responsibility for all other eligible children shall be the county where the child is physically residing prior to placement with the adoptive family.

(e) The department shall actively seek and make maximum use of federal funds which may be available for the purposes of this chapter. All gifts or grants received from private sources for the purpose of this chapter shall be used to offset public costs incurred under the program established by this chapter.

SEC. 6. Section 16119 of the Welfare and Institutions Code is amended to read:

16119. The department and all adoption agencies shall disseminate information to prospective adoptive families, especially those families of lower income levels and those belonging to disadvantaged groups, as to the availability of adoptable special needs children and of the existence of aid to adoptive families under this chapter.

The county responsible for providing foster care for a child shall provide financial aid to the adoptive family in an amount determined pursuant to Section 16120.

SEC. 7. Section 16120 of the Welfare and Institutions Code is

amended to read:

16120. Adoption Assistance Program benefits shall be paid only on behalf of special needs children for whom the following conditions are met:

(a) The department or licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits. The adoption assistance agreement shall, at a minimum, specify the duration of assistance, the responsibility of the adopting family for reporting changes in circumstances, and the periodic recertification required for reevaluating the continuing needs of the family.

(b) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.

(c) The adoptive family is responsible for the child pursuant to the terms of an adoption assistance agreement and an interlocutory decree or a final decree of adoption.

(d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(e) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court, or committed to the department pursuant to subdivision (c) of Section 226 of the Civil Code.

SEC. 8. Section 16122 of the Welfare and Institutions Code is amended to read:

16122. From any funds appropriated therefor, the state shall reimburse private adoption agencies licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code for costs of aid to adoption programs for special needs children, less the amount of fees received by such agencies from adoptive parents. Those agencies shall be reimbursed for the placement of special needs children in an amount not to exceed two thousand dollars (\$2,000) per placement. Nothing in this section shall be construed to authorize reimbursement to private agencies for intercountry adoption services.

SEC. 9. Chapter 2.5 (commencing with Section 16155) of Part 4 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 10. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 1345

An act to amend Section 226.55 of the Civil Code, relating to adoption.

[Approved by Governor September 28, 1986. Filed with  
Secretary of State September 29, 1986.]

LEGISLATIVE COUNSEL'S DIGEST

AB 4272, Bronzan. Adoption.

Existing law authorizes the State Department of Social Services or a local public adoption agency to require persons desiring to adopt a child to be fingerprinted and to secure the full criminal record of those persons.

The bill would require the State Department of Social Services, a local public adoption agency, or a licensed private adoption agency to require fingerprinting of those persons and to secure any criminal record, as specified, and would authorize these agencies to secure the full criminal record, if any, of those persons from an appropriate law enforcement agency, thus establishing a state-mandated local program. It would require any such record to be taken into consideration when evaluating a prospective adoptive parent and also would require an assessment of the effect of the criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child to be included in the agency's report to the court; this latter requirement would also establish a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that the Legislature finds there is no mandate contained in the bill which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to these constitutional and statutory provisions.

The bill would also authorize an adoption agency or the State Department of Social Services to defer, waive, or reduce the fee charged by a law enforcement agency, as specified.

*The people of the State of California do enact as follows:*

SECTION 1. Section 226.55 of the Civil Code is amended to read:  
226.55. The State Department of Social Services, a local public adoption agency, or a licensed private adoption agency shall require all persons filing an application or a petition to adopt a child to be

fingerprinted and shall secure from an appropriate law enforcement agency any criminal record of that person to determine whether the person has ever been convicted of a crime other than a minor traffic violation. Those agencies may also secure the full criminal record, if any, of those persons. The record, if any, shall be taken into consideration when evaluating a prospective adoptive parent, and an assessment of the effects of his or her criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court. Any fee charged by a law enforcement agency for fingerprinting or for checking or obtaining the criminal record of the applicant or petitioner shall be paid by the applicant or petitioner. The adoption agency or the State Department of Social Services may defer, waive, or reduce the fee when its payment would cause economic hardship to the adoptive parents detrimental to the welfare of the adopted child, when the child has been in the foster care of the adoptive parents for at least one year, or if necessary for the placement of a special-needs child. A special-needs child is a child whose adoption without financial assistance would be unlikely because of adverse parental background, ethnic background, race, color, language, membership in a sibling group which should remain intact, mental, physical, medical, or emotional handicaps or age of three years or more.

SEC. 2. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Assembly Bill No. 4295

CHAPTER 445

An act to add Section 224b to the Civil Code, relating to adoption.

[Approved by Governor July 22, 1986. Filed with  
Secretary of State July 22, 1986.]

LEGISLATIVE COUNSEL'S DIGEST

AB 4295, Stirling. Adoption.

(1) Existing law provides procedures for the adoption of children.

This bill would require the State Department of Social Services to establish a statewide photo-listing service to serve all licensed adoption agencies. It would require the photo-listing service to maintain a book that contains a photograph and description of each child who has been legally freed and whose case plan is adoption, with specified exceptions. It would require all licensed adoption agencies to send to the photo-listing service, within 15 working days of the time that a child becomes free for adoption, a recent photograph and description of the child and it would require the agencies to provide updated information, as prescribed. It would also require the department to promulgate certain regulations concerning the operation and monitoring of the photo-listing service. The bill would not apply to independent or intercountry adoptions. The bill would establish a state-mandated local program as the requirement regarding licensed adoption agencies would be applicable to county adoption agencies.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that the Legislature finds there is no mandate contained in the bill which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to these constitutional and statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 224b is added to the Civil Code, to read:

224b. (a) The State Department of Social Services shall establish a statewide photo-listing service which shall serve all licensed adoption agencies in the state as a means of recruiting adoptive families for children who have been legally freed, and whose case plan goal is adoption. The photo-listing service shall maintain a book that, except as provided in this section, contains a photograph and description of each child who has been legally freed, and whose case

plan goal is adoption. Registration of children with the photo-listing service and notification by the licensed adoption agency of changes in a child's photo-listing status shall be reflected in the book within 30 working days of receipt of the registration or notification.

(b) The department shall promulgate regulations governing the operations of the photo-listing service and shall establish procedures for monitoring compliance with this section.

(c) The photo-listing service shall be provided to all licensed adoption agencies; adoption support groups; and state, regional, or national photo-listings or exchanges requesting copies of the photo-listing service.

(d) All legally freed children for whom adoption is the case plan shall be photo-listed, unless deferred as in subdivision (e) or (f). Licensed adoption agencies shall send a recent photograph and description of each legally freed child to the photo-listing service within 15 working days of the time a child is legally freed for adoption. When adoption has become the plan for a particular child, the agency may photo list that child prior to the child's becoming legally freed for adoption.

(e) A child shall be deferred from the photo-listing service when that child's foster parents or other identified individuals have applied to adopt the child and their applications have not yet been processed by the adoption agency.

(f) A child who is 12 years old, or older, may be deferred from the photo-listing service if the child does not consent to being adopted.

Children who are not listed for the reason specified in subdivision (e) shall be listed with the photo-listing service within 60 working days of the date the child was legally freed, unless a notice of adoptive placement has been filed.

(g) The department shall establish procedures for semiannual review of the photo-listing status of all legally freed children whose case plan goal is adoption, including those who are registered with the photo-listing service and those whose registration has been deferred.

(h) Within 15 working days following a one-year period in which a child is listed in the book, the agency shall submit a revised description and photograph of that child.

(i) Licensed adoption agencies shall notify the photo-listing service, by telephone, of any adoptive placements or of significant changes in the child's photo-listing status within two working days of that change.

(j) This section does not apply to independent or intercountry adoptions.

SEC. 2. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the

California Constitution and Part 7 (commencing with Section 17500)  
of Division 4 of Title 2 of the Government Code.

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CHAPTER 1370

An act to amend Sections 7006 and 7017 of the Civil Code, relating to parent and child.

[Approved by Governor September 29, 1986. Filed with Secretary of State September 30, 1986.]

LEGISLATIVE COUNSEL'S DIGEST

SB 903, Presley. Parent and child.

Existing law, the Uniform Parentage Act, specifies a procedure for the establishment of the parent and child relationship. No adoption may be completed until a petition is granted terminating the natural father's rights, as specified. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court is required to determine parentage and custodial rights in whatever order the court deems proper; as specified. If the court finds that the man is a presumed father (generally speaking, a presumed father is a man who has or who has sought to establish a marital relationship with the mother of the child or who has received the child into his home and held out the child as his own), the father's consent is required for an adoption of the child. In all other cases, (where the man is a so-called "alleged" father) only the mother's consent is required to the adoption.

This bill would make the following changes in the Uniform Parentage Act:

(a) Revise the procedures of the act to require that, rather than suspending an adoption proceeding, an action to determine the existence of a father and child relationship with regard to a child having no presumed father or whose presumed father is deceased shall be consolidated with a proceeding for the termination of the parental rights of the father. It would provide that if a natural father or a man so representing himself claims parental rights, the court would be required to (i) determine if he is the father, and (ii) if so, determine if it is in the child's best interest that the father retain his parental rights or that the adoption be allowed to proceed. In making the determination specified in (ii), the court would be authorized to consider all relevant evidence, including certain specified factors. If the court finds that it is in the child's best interest that the father should be allowed to retain his parental rights, it would be required to order that his consent is required for the adoption. The bill would specify that a provision of the Family Law Act specifying an order of preference in the award of the custody of children is not applicable to this proceeding.

(b) Provide that a man otherwise presumed to be the father of a child shall not be a presumed father for the purposes of entitlement

to notice of the adoption proceeding and other rights provided to presumed fathers under the laws relating to adoption if he executes a declaration that he is not the child's father or if the presumption arises under certain provisions of law and certain other circumstances also exist.

(c) This bill also would incorporate additional amendments to Sec. 7006, Civ. C., as proposed by SB 1751, contingent upon the prior enactment of SB 1751.

*The people of the State of California do enact as follows:*

SECTION 1. Section 7006 of the Civil Code is amended to read: 7006. (a) A child, the child's natural mother, or a man presumed to be the child's father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004.

(2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Social Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. Such an action shall be consolidated with a proceeding pursuant to subdivision (b) of Section 7017. The parental rights of the alleged natural father shall be determined as set forth in subdivision (d) of Section 7017.

(d) Except as to cases coming within the provisions of Section 621 of the Evidence Code, a man not a presumed father may bring an action for the purpose of declaring that he is the natural father of a child having a presumed father under Section 7004, if the mother relinquishes for, consents to, or proposes to relinquish for or consent to, the adoption of the child. Such an action shall be brought within 30 days after the man is served as prescribed in subdivision (f) of

Section 7017 with a notice that he is or could be the father of the child or the birth of the child, whichever is later. The commencement of the action shall suspend any pending proceeding in connection with the adoption of the child until a judgment in the action is final.

(e) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

(f) An action under this section may be brought before the birth of the child.

(g) The district attorney may also bring an action under this section in any case in which he or she believes that the interests of justice will be served thereby.

SEC. 1.5. Section 7006 of the Civil Code is amended to read:

7006. (a) A child, the child's natural mother, or a man presumed to be the child's father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004.

(2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Social Services, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. Such an action shall be consolidated with a proceeding pursuant to subdivision (b) of Section 7017. The parental rights of the alleged natural father shall be determined as set forth in subdivision (d) of Section 7017.

(d) Except as to cases coming within the provisions of Section 621 of the Evidence Code, a man not a presumed father may bring an action for the purpose of declaring that he is the natural father of a child having a presumed father under Section 7004, if the mother relinquishes for, consents to, or proposes to relinquish for or consent to, the adoption of the child. Such an action shall be brought within

30 days after the man is served as prescribed in subdivision (f) of Section 7017 with a notice that he is or could be the father of the child or the birth of the child, whichever is later. The commencement of the action shall suspend any pending proceeding in connection with the adoption of the child until a judgment in the action is final.

(e) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

(f) An action under this section may be brought before the birth of the child.

(g) The district attorney may also, at his or her discretion, bring an action under this section in any case in which the district attorney believes it to be appropriate.

SEC. 2. Section 7017 of the Civil Code is amended to read:

7017. (a) (1) If a mother relinquishes for or consents to or proposes to relinquish for or consent to the adoption of a child who has (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding and have the rights provided under Chapter 2 (commencing with Section 221) of Title 2 of Part 3 of Division 1 of the Civil Code, unless the father's relationship to the child has been previously terminated or determined by a court not to exist or the father has voluntarily relinquished or consented to the adoption of the child.

(2) If a father relinquishes or consents to or proposes to relinquish a child for adoption, the mother shall be given notice of the adoption proceeding and have the rights provided under Chapter 2 (commencing with Section 221) of Title 2 of Part 3 of Division 1 of the Civil Code, unless the mother's relationship to the child has been previously terminated by a court or the mother has voluntarily relinquished or consented to the adoption of the child.

(b) If a mother relinquishes for, consents to, or proposes to relinquish for or consent to the adoption of a child who does not have (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, or if a child otherwise becomes the subject of an adoption proceeding and the alleged father, if any, has not, in writing, denied paternity, waived his right to notice, voluntarily relinquished or consented to the adoption, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the superior court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court, or unless the father has been served as prescribed in subdivision (f) with a written notice alleging that he is or could be the natural father of the child to be adopted or placed for adoption

and has failed to bring an action for the purpose of declaring the existence of the father and child relationship pursuant to subdivision (c) of Section 7006 within 30 days of service of the notice or the birth of the child, whichever is later.

(c) In an effort to identify the natural father, the court shall cause inquiry to be made of the mother and any other appropriate person by the State Department of Social Services, a licensed county adoption agency, or the licensed adoption agency to which the child is to be relinquished, or in the case of a stepparent adoption, at the option of the board of supervisors, a licensed county adoption agency, the county department designated by the board of supervisors to administer the public social services program, or the county probation department. The inquiry shall include the following: whether the mother was married at the time of conception of the child or at any time thereafter; whether the mother was cohabiting with a man at the time of conception or birth of the child; whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy; or whether any man has formally or informally acknowledged or declared his possible paternity of the child. The department or the licensed adoption agency shall report the findings to the court.

(d) (1) If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each shall be given notice of the proceeding in accordance with subdivision (f), unless he has been served with a written notice alleging that he is or could be the natural father of the child to be adopted, or placed or relinquished for adoption and has failed to bring an action pursuant to subdivision (c) of Section 7006 to declare the existence of the father and child relationship within 30 days of serving the notice or the birth of the child, whichever is later. If any of them fails to appear or, if appearing, fails to claim parental rights, his parental rights with reference to the child shall be terminated.

(2) If the natural father or a man representing himself to be the natural father claims parental rights, the court shall determine if he is the father. The court shall then determine if it is in the best interest of the child that the father retain his parental rights, or that an adoption of the child be allowed to proceed. The court, in making that determination, may consider all relevant evidence, including the efforts made by the father to obtain custody, the age and prior placement of the child, and the effects of a change of placement on the child. If the court finds that it is in the best interest of the child that the father should be allowed to retain his parental rights, it shall order that his consent is necessary for an adoption. If the court finds that the man claiming parental rights is not the father, or that if he is the father it is in the child's best interest that an adoption be allowed to proceed, it shall order that that person's consent is not

required for an adoption; such a finding terminates all parental rights and responsibilities with respect to the child. Section 4600 does not apply to this proceeding. Nothing in this section changes the rights of a presumed father.

(e) If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child.

(f) Notice of the proceeding shall be given to every person identified as the natural father or a possible natural father in accordance with the provisions of the Code of Civil Procedure for the service of process in a civil action in this state, provided that publication or posting of the notice of the proceeding shall not be required. Proof of giving the notice shall be filed with the court before the petition is heard. However, if a person identified as the natural father or possible natural father cannot be located or his whereabouts are unknown or cannot be ascertained, the court may issue an order dispensing with notice to that person.

(g) Any order requiring or dispensing with a father's consent for the adoption of a child may be appealed from in the same manner as an order of the juvenile court declaring a person to be a ward of the juvenile court.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 7006 of the Civil Code proposed by both this bill and SB 1751. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1987, (2) each bill amends Section 7006 of the Civil Code, and (3) this bill is enacted after SB 1751, in which case Section 1 of this bill shall not become operative.

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